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**FISCAL IMPACT STATEMENT**

**LS 6770**

**BILL NUMBER:** HB 1238

**NOTE PREPARED:** Dec 27, 2006

**BILL AMENDED:**

**SUBJECT:** Licensure of Midwives.

**FIRST AUTHOR:** Rep. Welch

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** *Midwifery Board-* The bill establishes the Midwifery Board. The bill sets qualifications for a certified professional midwife (CPM). The bill requires the Board to: (1) develop peer review procedures; (2) require the purchase of liability insurance as a condition for licensure if the Board determines liability insurance is sufficiently available; and (3) adopt rules limiting the scope of practice of CPMs to nonhospital settings.

*Penalty Provision-* The bill makes it a Class B misdemeanor to practice midwifery without a license. The bill adds culpability standards to the crimes of practicing medicine or osteopathic medicine and acting as a physician's assistant without a license.

*CPM Provisions-* The bill allows the Board to specify circumstances under which a CPM may administer certain prescription drugs. The bill provides that a health care provider may not be held liable for the acts or omissions of a CPM or a licensed physician who has a collaborative agreement with the CPM. The bill allows certain individuals to act under the supervision of a CPM.

*Midwife Reimbursement Under the Medicaid Program-* The bill requires the Office of Medicaid Policy and Planning (OMPP) to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement for CPMs.

*Repealer-* The bill repeals the definition of "midwife" in the medical malpractice law.

**Effective Date:** July 1, 2007.

**Summary of Net State Impact:** The Professional Licensing Agency (PLA) would require additional expenditures to administer a new professional board. When a new licensing board is established, generally the licensure fees are set at a level designed to cover expenses. The amount of revenue potentially generated from issuing a new license is dependent on the number of certified professional midwife applicants.

**Explanation of State Expenditures:** *Midwifery Board-* The bill would establish the seven-member Indiana Midwifery Board. The Board would be responsible for overseeing the licensing process, establishing fees and continuing education requirements, supervising the peer review process, preparing consent and other relevant forms, researching availability of liability insurance, and adopting rules. The bill creates a new health care professional category for licensed certified professional midwives and reclassifies nurse midwives as certified nurse midwives. Certified nurse midwives would remain under the jurisdiction of the Board of Nursing, while the certified professional midwives would be under the jurisdiction of the proposed Midwifery Board. As of December 2006, 83 certified nurse midwives and 57 nurse midwives were licensed to practice in Indiana.

The PLA reports the 11 work groups currently staffing the existing 37 professional boards and commissions are at working capacity. Vacancies are either assigned to the existing boards when filled or are currently unfunded. At least two additional staff persons would be needed to administer the Midwifery Board. The additional expenditures to establish the Board would be approximately \$105,900 in FY 2008 and \$106,600 in FY 2009. The estimate includes the salary and benefits for a PAT II position, a COMOT II position, and the following Board expenditures: member per diem, lodging and mileage, telephone expense, office supplies, and printing costs. The bill does not make an appropriation to cover expenditures for the Board.

*Background PLA-* As of October 2006, the PLA had 92 full-time employees. The PLA reverted \$63,329 to the state General Fund at the close of FY 2006.

*Penalty Provision:* This provision would change the penalty of practicing midwifery without a license to a Class B misdemeanor. (Under current law, any person other than a registered nurse practicing midwifery without a license commits a Class D felony.) This provision potentially reduces the costs to the state if a person is convicted of a misdemeanor rather than a felony. However, any cost reduction is likely to be small. Persons convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to a Class A misdemeanor.

*Midwife Reimbursement Under the Medicaid Program:* OMPP would be required to seek a waiver from the U.S. Department of Health and Human Services (HHS) to allow Medicaid reimbursement for licensed certified professional midwives (CPMs) who are not registered nurses. According to OMPP, federal financial participation is not currently available for services rendered by a midwife when the practitioner is not a registered nurse. The bill provides that if HHS does not grant a waiver from these regulations, Medicaid will not reimburse these midwifery services and, thus, the state General Fund will not incur any additional costs. If HHS does grant the waiver, the bill adds licensed CPMs to the list of practitioners able to receive Medicaid reimbursement. Since this does not represent an expansion of Medicaid services, the Medicaid program should not incur additional costs.

The waiver application process is not without opportunity costs. Waiver applications are generally developed and submitted by the existing staff in OMPP. Applications must be developed and adequately justified. If the Centers for Medicare and Medicaid Services (CMS) have questions or request additional information, staff must be available to respond within specified time lines or the request is considered expired. If the

waivers are subsequently approved, OMPP must implement the services and fulfill any waiver reporting requirements.

**Explanation of State Revenues:** The Board would establish fees for the examination and licensure of midwives. Presumably, the fees would be set at a level designed to cover expenses. The amount of revenue that would be generated by this proposal would depend on the number persons seeking licensure as a CPM, which is currently indeterminable. The Board would be authorized to impose civil penalties of up to \$500 for violations of certain provisions of this proposal.

*Penalty Provision:* This provision potentially reduces the revenue to the Common School Fund if additional court cases occur and a fine is assessed. However, the revenue reduction is likely to be small. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are the same.

**Explanation of Local Expenditures:** *Penalty Provision:* This provision could increase local expenditures if offenders are incarcerated in local jails rather than in state prisons. However, any expenditure increase is likely to be small. A Class B misdemeanor is punishable by up to 180 days in jail.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction; Professional Licensing Agency; Office of the Secretary of Family and Social Services, Office of Medicaid Policy and Planning; Department of Insurance.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Wade Lowhorn and Barbara McNutt, Professional Licensing Agency; OMPP.

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